

## **REMARKS**

### **I. Introduction**

With the addition of claim 24 to 25, claims 1, 4 and 6 to 25 are pending in the present application. Claims 1, 15 and 16 have been amended. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Allowable Subject Matter**

Applicants note with appreciation the indication of allowable subject matter contained in claim 16. In this regard, the Examiner will note that claim 16 has been rewritten herein in independent form to include all of the limitations of its base claim and any intervening claims. It is therefore respectfully submitted that claim 16 is in condition for immediate allowance.

### **III. Rejection of Claims 1, 4, 6 to 10, 12 and 15 Under 35 U.S.C. § 102(b)**

Claims 1, 4, 6 to 10, 12 and 15 were rejected under 35 U.S.C. § 102(b) as anticipated by Japanese Patent No. 2002-4985 ("Inui et al."). Applicants respectfully submit that Inui et al. do not anticipate the present claims for the following reasons.

Claim 1, as amended, relates to a method for starting an engine system of a vehicle, which method includes performing a starter-free starting operation in response to a start request, testing whether the starter-free starting operation leads to a successful start of the engine system, and if the testing yields a negative result, automatically starting the engine system using a starter. Claim 1 further recites that the testing for the successful start is conducted by evaluating at least one of a temperature of the engine system and a position of a crankshaft of the engine system so as to determine whether a cylinder of the engine system is in a working phase when the engine system is at a standstill.

In contrast, Inui et al. purport to relate to a starting device which detects a cylinder in the expansion phase as the engine is running down, based on signals of the crank-angle sensor and camshaft-angle sensor, so that a specified quantity of fuel may be injected into this cylinder. To start the engine, an ignition is induced so as to induce a combustion in the cylinder which was detected in the expansion phase. In this manner, the starting process is implemented solely by combustion pressure. The starting device also has a safety function. If the described starting process is successful, then a starter 14 is prevented from operating. If the described starting process does not run successfully, then the starter 14 is switched on.

In this regard, the assessment as to whether the described starting process executed independently of the starter 14 is successful is carried out by evaluating the engine speed.

It is respectfully submitted that Inui et al. do not disclose, or even suggest, conducting a test for a successful start by evaluating a temperature of the engine system and/or a position of a crankshaft of the engine system, as recited in claim 1. Indeed, in the Inui system, the determination of the position of the crankshaft is used only to ascertain a cylinder in the expansion phase that is suitable for a subsequent starting process. The Examiner asserts on page 3 of the final Office Action that the evaluation of engine speed to assess whether the starting process is successful, as described by Inui et al., inherently includes an evaluation of a position of the crankshaft. However, according to amended claims 1 and 15, the evaluation of the position of the crankshaft occurs with the aim of determining whether a cylinder of the engine system is in the working phase when the engine system is at a standstill, which differs from an evaluation of the engine speed described by Inui et al., because the evaluation of the engine speed does not inherently include the evaluation of a position of the crankshaft with the aim of determining whether a cylinder of the engine system is in the working phase when the engine is at a standstill.

According to the claimed subject matter of the present application, the test for a successful start using the starter-free starting method is carried out by evaluating a position of the crankshaft so as to determine when a cylinder of the engine system is in the working phase when the engine is at a standstill, which makes it possible to detect early on, and prior to the start, whether the starter-free start will be successful or not. If, however, as is the case described by Inui et al., the engine speed is evaluated as a criterion for a successful starter-free start, then the test result will be available only after the initiation of the starter-free start.

Accordingly, for at least these reasons, it is respectfully submitted that Inui et al. do not anticipate claim 1. With respect to claims 4, 6 to 10, and 12, which ultimately depend from claim 1 and therefore include all of the limitations of claim 1, and with respect to claim 15, which recites limitations analogous to claim 1, it is respectfully submitted that Inui et al. do not anticipate these claims for at least the same reasons given above in support of the patentability of claim 1. Withdrawal of this rejection is therefore respectfully requested.

**IV. Rejection of claim 11 under 35 U.S.C. § 103(a)**

With respect to the rejection of claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Inui et al. in view of U.S. Patent No. 4,286,683 ("Zeigner et al."), it is respectfully submitted that even if it were proper to combine the references as suggested by the Examiner (which is not conceded), the secondary Zeigner et al. reference does not cure the critical deficiencies of the Inui reference (as explained above) with respect to claim 1, from which claim 11 ultimately depends. Indeed, the Office Action merely uses Zeigner to assert disclosure of an accelerator. Accordingly, claim 11 is patentable for the above reasons and the reasons given in support of the patentability of claim 1.

**V. New Claims 24 to 25**

New claims 24 to 25 have been added herein. It is respectfully submitted that new claims 24 to 25 add no new matter and are fully supported by the present application, including the Specification. New claim 24 depends from claim 1, and is therefore allowable for at least the same reasons as claim 1.

New claim 25 recites features essentially analogous to allowed claim 23, and is therefore allowable for at least the same reasons as claim 23.

**VI. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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